



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG-2012-0123]

RIN 1625-AA08, AA00

Special Local Regulations and Safety Zone; War of 1812  
Bicentennial Commemorations, Chesapeake Bay and Port of  
Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to establish temporary special local regulations and safety zone in the Chesapeake Bay and Port of Baltimore, Maryland for War of 1812 Bicentennial Commemorations activities. This action is necessary to provide for the safety of life on navigable waters before, during, and after War of 1812 Bicentennial Commemorations events being planned for Baltimore, Maryland. This action will restrict vessel traffic in portions of the Inner Harbor, the Northwest Harbor, the Patapsco River, and the Chesapeake Bay.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Requests for

public meetings must be received by the Coast Guard on or before **[INSERT DATE 15 DAYS BEFORE END OF COMMENT PERIOD]**.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0123 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing or submitting material to the

docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0123), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that

we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2012-0123" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2012-0123" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation

West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before **[INSERT DATE 15 DAYS BEFORE END OF COMMENT PERIOD]** using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

#### Basis and Purpose

The U.S. Department of the Navy is sponsoring War of 1812 Bicentennial Commemorations in the Chesapeake Bay and

Port of Baltimore, Maryland. Planned events include the scheduled arrival of U.S. and foreign naval vessels, public vessels, tall ships and other vessels beginning on June 12, 2012 and the scheduled departure of those vessels ending on June 20, 2012. The Coast Guard anticipates a large spectator fleet for these events. Operators should expect significant vessel congestion along the arrival and departure routes. The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Baltimore and the waters of the Chesapeake Bay immediately prior to, during, and after the scheduled events. The regulations will provide for clear passage of participating vessels, a safety buffer around the participating vessels while they are in transit for the benefit of participants and spectators. The regulations will impact the movement of all vessels operating in specified waters of the Chesapeake Bay, Patapsco River, Northwest Harbor and the Inner Harbor.

It may be necessary for the Coast Guard to establish additional safety or security zones in addition to these regulations to safeguard dignitaries and certain vessels participating in the event. If the Coast Guard deems it necessary to establish such zones at a later date, the details of those zones will be announced separately via the

Federal Register, Local Notice to Mariners, Safety Voice Broadcasts, and any other means available.

With the arrival of War of 1812 Bicentennial Commemorations participants and spectator vessels in the Port of Baltimore for this event, it will be necessary to curtail normal port operations to some extent. The Coast Guard will attempt to minimize interference while still ensuring the safety of life on the navigable waters immediately before, during, and after the scheduled events.

#### Discussion of Proposed Rule

The War of 1812 Bicentennial Commemorations vessels are scheduled to arrive in the Captain of the Port (COTP) Baltimore Zone, as described in 33 CFR 3.25-15, beginning on June 12, 2012, following a route that includes specified waters of the Chesapeake Bay, Patapsco River, Northwest Harbor and the Inner Harbor. The War of 1812 Bicentennial Commemorations vessels are scheduled to depart the COTP Baltimore Zone, ending on June 20, 2012, following a route that includes specified waters of the Inner Harbor, Northwest Harbor, Patapsco River and the Chesapeake Bay. The safety of War of 1812 Bicentennial Commemorations vessels and spectators requires that spectator craft be kept at a safe distance from these routes during these vessel movements.

The Coast Guard proposes establishing special local regulations for the area in the Port of Baltimore through which the vessels will pass for the War of 1812 Bicentennial Commemorations arrival on June 13, 2012 and the War of 1812 Bicentennial Commemorations departure on June 19, 2012. In addition to establishing special local regulations, we propose to establish temporary moving safety zones around War of 1812 Bicentennial Commemorations vessels greater than 100 feet in length overall, while operating in the navigable waters of the Chesapeake Bay or its tributaries, north of the Maryland - Virginia border and south of latitude 39°35'00" N. This action is necessary to ensure the safety of participants and spectators immediately prior to, during, and following the War of 1812 Bicentennial Commemorations activities.

The regulations contained within this proposed rule are not intended to effect existing Naval Vessel Protection Zone regulations described in Title 33 CFR Part 165 (Subpart G).

#### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Regulatory Planning and Review



Executive Orders 12866, Regulatory Planning and Review, and 13563, Improving Regulation and Regulatory Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The primary impact of this proposed rule would be on vessels wishing to transit the affected waterways during the War of 1812 Bicentennial Commemorations vessels arrival beginning on June 12, 2012 and their departure ending on June 20, 2012. Although this proposed rule would prevent traffic from transiting a portion of the Inner Harbor, Northwest Harbor, Patapsco River and the Chesapeake Bay during these events, that restriction is limited in duration, affects only a limited area, and would be well publicized to allow mariners to make alternative plans for

transiting the affected area. Moreover, the magnitude of the event itself would severely hamper or prevent transit of the waterway, even absent this proposed rule, which is designed to ensure it is conducted in a safe and orderly fashion.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Inner Harbor, the Northwest Harbor and Patapsco River, and the Chesapeake Bay, in Maryland. The regulations would not have a significant impact on a substantial number of small entities for the following reasons: the restrictions are limited in duration, affect only limited areas, and will be

well publicized to allow mariners to make alternative plans for transiting the affected areas. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Commander, Coast Guard Sector Baltimore, 2401 Hawkins Pont Road, Building 70, Baltimore, Maryland, 21226-1791, Attention to: Waterways Management Division. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy

or action of the Coast Guard.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not cause a taking of private

property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that

are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment.

This proposed rule involves establishing special local regulations issued in conjunction with a marine event, as described in figure 2-1, paragraph (34)(h), of the Instruction. Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and categorical exclusion determination are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

Additionally, this proposed rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the

Instruction. This rule also involves establishing a temporary safety zone. A preliminary environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

#### List of Subjects

##### 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

##### 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 100 and 165 as follows:

#### PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T05-0123 to read as follows:

§ 100.35T05-0123 Special Local Regulations for Marine Events; War of 1812 Bicentennial Commemorations, Chesapeake Bay and Port of Baltimore, MD.

(a) Definitions. (1) "Captain of the Port Baltimore" means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant, or petty officer who has



been authorized by the Captain of the Port Baltimore to act on his behalf.

(2) "Official Patrol Vessel" includes all U. S. Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Sector Baltimore.

(3) "War of 1812 Bicentennial Commemorations Vessel" includes all vessels participating in War of 1812 Bicentennial Commemorations activities under the auspices of the U.S. Department of Homeland Security Application for Marine Event submitted for the War of 1812 Bicentennial Commemorations activities in Baltimore, Maryland and approved by the Captain of the Port Baltimore.

(4) "War of 1812 Bicentennial Commemorations arrival" is the movement of War of 1812 Bicentennial Commemorations vessels in orderly succession as they navigate designated routes in the Chesapeake Bay in Maryland and in the Port of Baltimore while inbound to Baltimore, Maryland on June 13, 2012.

(5) "War of 1812 Bicentennial Commemorations departure" is the movement of War of 1812 Bicentennial Commemorations vessels in orderly succession as they navigate designated routes in the Port of Baltimore and in the Chesapeake Bay in Maryland while outbound from Baltimore, Maryland on June 19, 2012.

(b) Regulated areas. The following regulated areas are established as special local regulations during the War of 1812 Bicentennial Commemorations in Baltimore, Maryland. All coordinates reference Datum NAD 1983.

(1) "Arrival Area". All waters of the Patapsco River, Northwest Harbor and Inner Harbor enclosed by:

Latitude	Longitude
39°15'41" N	076°34'48" W, to
39°15'05" N	076°34'44" W, and
39°14'08" N	076°33'38" W, to
39°12'46" N	076°32'03" W, to
39°10' 25" N	076°31'01" W, to
39°12'06" N	076°29'43" W, to
39°13'22" N	076°31'16" W, to
39°15'40" N	076°33'34" W.

(2) "Departure Area". All waters of the Patapsco River, Northwest Harbor and Inner Harbor enclosed by:

Latitude	Longitude
39°15'41" N	076°34'48" W, to
39°15'05" N	076°34'44" W, and
39°14'08" N	076°33'38" W, to
39°12'46" N	076°32'03" W, to
39°10' 25" N	076°31'01" W, to
39°12'06" N	076°29'43" W, to
39°13'22" N	076°31'16" W, to
39°15'40" N	076°33'34" W.

(c) Special Local Regulations. (1) All persons and vessels within the regulated areas must operate in strict conformance with any directions given by the Captain of the Port Baltimore and leave the regulated areas immediately if the Captain of the Port Baltimore so orders.

(2) Unless otherwise directed by the Captain of the Port Baltimore, all vessels within the regulated areas shall be operated at the minimum speed necessary to maintain safe course.

(3) Persons desiring to transit the regulated area must first obtain authorization from the Captain of the Port Baltimore. To seek permission to transit the regulated areas, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). All Coast Guard vessels enforcing these regulated areas can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(4) The Captain of the Port Baltimore will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and will notify the public of any changes in the status of the regulated areas by a Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz).

(d) Effective dates: This rule is effective from June 13, 2012 through June 19, 2012.

(e) Enforcement periods: (1) "Arrival Area". Paragraph (b)(1) of this section will be enforced from 9 a.m. until 9 p.m. on June 13, 2012.

(2) "Departure Area". Paragraph (b)(2) of this section will be enforced from 6:30 a.m. until 3 p.m. on June 19, 2012.

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-0123 to read as follows:

§ 165.T05-0123 Safety Zone; War of 1812 Bicentennial Commemorations, Chesapeake Bay and Port of Baltimore, MD.

(a) Definitions. (1) "Captain of the Port Baltimore" means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

(2) "Designated Representative" means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (b) of this section.

(3) "War of 1812 Bicentennial Commemorations Vessels" includes all vessels participating in War of 1812 Bicentennial Commemorations activities under the auspices of the U.S. Department of Homeland Security Application for Marine Event submitted for the War of 1812 Bicentennial

Commemorations activities in Baltimore, Maryland and approved by the Captain of the Port Baltimore.

(b) Regulated areas. The following locations are a moving safety zone: (1) All waters within 500 yards of any War of 1812 Bicentennial Commemorations vessel which is greater than 100 feet in length overall, while operating in the navigable waters of the Chesapeake Bay or its tributaries, north of the Maryland - Virginia border and south of latitude 39°35'00" N.

(2) All waters within 100 yards of any War of 1812 Bicentennial Commemorations vessel which is greater than 100 feet in length overall, while operating in the navigable waters of the Chesapeake Bay or its tributaries, north of the Maryland - Virginia border and south of latitude 39°35'00" N.

(c) Regulations. The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05.0123. (1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) The Navigation Rules shall apply while within the safety zone described in paragraph (b).

(3) Persons and vessels intending to transit the area of the safety zone described in paragraph (b)(1) of this section shall operate at the minimum speed necessary to

maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Captain of the Port Baltimore or his designated representative.

(4) Entry into or remaining in the area of the safety zone described in paragraph (b)(2) of this section is prohibited unless authorized by the Captain of the Port Baltimore or his designated representative. Persons desiring to transit the area of the safety zone described in paragraph (b)(2) of this section must first request authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing lights, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the

zone, unless required to maintain speed by the Navigation Rules.

(5) The Captain of the Port Baltimore will notify the public of any changes in the status of this zone by a Marine Safety Radio Broadcast on Marine Band Radio VHF-FM channel 22A (157.1 MHZ).

(6) The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) Effective dates: This section is effective from June 12, 2012 through June 20, 2012.

(e) Enforcement periods: This section will be enforced from 6 p.m. on June 12, 2012 until 9 p.m. on June 13, 2012, and from 6 a.m. on June 19, 2012 until 5 a.m. on June 20, 2012.

Dated: February, 26 2012

Mark P. O'Malley  
Captain, U.S. Coast Guard  
Captain of the Port Baltimore.

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